



NASA Financial Management Manual

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FMM 9641 CLAIMS AGAINST NASA

9641-1 SCOPE

This section of the manual sets forth the policies and procedures relating to claims (including claims involving loss or damage arising from transportation services) against, the United States, as represented by NASA, which must be adjudicated by the responsible Government agency before payment is made or denied. Claims against NASA which must be adjudicated by the responsible Government agency before payment is made or denied fall into two classes: (1) claims which NASA is prohibited by law from paying or denying prior to adjudication by the responsible Government agency and (2) claims where there exists such doubt as to the validity of the claim that action by NASA certifying officers is precluded in the absence of specific statutory authority to take such action. The responsible Government agencies include: (1) Office of Personnel Management, (2) General Services Administration, (3) Department of Defense, (4) Department of Treasury, and (5) Executive Branch agency out of whose activity the claim arose.

This section does not cover (1) employees' personal property claims and claims against NASA or NASA's employees for damage to or loss of property or personal injury or death or (2) claims of NASA against others, which are covered in FMM 9050, Cash Management.

9641-2 POLICY

NASA's policy is to process claims received promptly and pay or deny claims based on laws, statutes, decisions of the Comptroller General or the Executive Branch agency out of whose activity the claim arose, and other legal written documentation.

9641-3 AUTHORITY

- a. Section 305 of the Budget and Accounting Act, 31 USC 3702.
- b. Public Law 104-316, General Accounting Office (GAO) Act of 1996 (110 Statue. 3826), dated October 19, 1996.
- c. Title 20 of the Code of Federal Regulations, Federal Employees Compensation Act, Labor Department.
- d. 18 USC 205 and 287.
- e. 28 USC 2401 and 2501.
- f. 31 USC 3702, 3726 and 3729.



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9641-4 *DEFINITIONS*

The following definitions apply to this section.

- a. **CLAIM.** A claim for payment or monetary damages against the United States arising out of activities of NASA. Also, a request (reclaim) for amounts deducted or set-off by the government.
- b. **ALLOWED CLAIM.** A claim that has been certified for payment by the Agency.
- c. **DISALLOWED CLAIMS.** Claims that, after review, have been denied in part or totally by the responsible Government agency.
- d. **DOUBTFUL CLAIM.** A claim is doubtful when either the person having final responsibility for deciding appropriate administrative action or the accountable person is unable to decide with reasonable certainty the validity and correctness of the claim.
- e. **WHOLLY DISALLOWED CLAIMS.** Claims that, after review, have been denied in entirety by the responsible Government agency.

9641-5 *STANDARD FORMS*

Standard Form 1055	Claim Against the United States for Amounts Due in the Case of Deceased Creditor
Standard Form 1153	Claims of Designated Beneficiary and/or Surviving Spouse for Unpaid Compensation of Deceased Civilian Employee
Standard Form 1154	Public Voucher for Unpaid Compensation Due a Deceased Civilian Employee
Standard Form 1155	Claim for Unpaid Compensation of Deceased Civilian Employee (No Designated Beneficiary or Surviving Spouse)

9641-6 *CLAIMS REQUIRED TO BE SUBMITTED TO THE RESPONSIBLE GOVERNMENT AGENCY*

Pursuant to Public Law 104-316, the following classes of claims may not be paid or denied by NASA, but must first be adjudicated by the responsible Government agency, unless otherwise specifically provided by law:

- a. Claims for collection of erroneous payments from civilian employees, under 5 USC 5584, delegated to the Executive Branch agency that made the erroneous payment.
- b. Claims for collection of erroneous payments from members of uniformed services, including the National Guard, under 10 USC 2774 and 32 USC 716, delegated to the Department of Defense.



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- c. Claims previously denied by NASA, unless determined administratively that denial was clearly in error and payment should have been effected.
- d. Claims that are barred by an applicable statute of limitation at the time the claim is received by the Center (28 USC 2401 and 2501).

Claims not otherwise transferred to the Department of Defense, General Services Administration, or Office of Personnel Management by section 202(n) of the GAO Act of 1996.

The authority to render advance decisions concerning a function under section 211(a) of the Legislative Branch Appropriations Act of 1996, that was previously delegated by the Office of Management and Budget, has been transferred by virtue of section 204 of the GAO Act of 1996 to the agency to which such function was delegated.

The advance decision authority concerning claims not otherwise transferred by section 202 of the GAO Act of 1996, is also delegated to the Executive Branch agency out of whose activity the claim arose.

9641-7 FILING REQUIREMENTS FOR CLAIMANTS

Claims will not be considered by the responsible Government agency unless presented in writing with the signature and address of the claimant or with the signature of the claimant's authorized agent or attorney (28 USC 2401). A claim filed by an agent or attorney must be supported by a duly executed power of attorney or other documentary evidence of the agent's or attorney's right to act for the claimant. Initial claims will be filed by the claimant with the Center where the activities arose; if the claim cannot be administratively disposed of, it will be transmitted through the Director, Financial Management Division, NASA Headquarters, to the responsible Government agency. Claimants must be cognizant of the statutory limitations for the filing of claims as provided in FMM 9641-8. Requests for review or reconsideration of claims disallowed by the responsible Government agency should be sent directly to the responsible Government agency by the claimant.

9641-8 STATUTORY TIME LIMITATION FOR FILING CLAIMS

- a. **GENERAL.** Every claim against NASA (except a claim by a State, Territory, Possession, or the District of Columbia) that requires a determination by the responsible Government agency must be submitted within 6 years after the date such claim first was submitted, unless otherwise provided for by law (28 USC 2501). The responsible Government agency will determine whether the claim has been made within the time prescribed by law. If the claim is not received by the responsible Government agency within the statutory time period, it will be returned to the claimant and no further action will be deemed necessary. NASA Headquarters will be notified of the action taken by the responsible Government agency. All matters relating to claims will be handled promptly. Claimants must also file court actions against NASA within 6 years after the date their claim first was submitted (31 USC 3702 (b)).



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- b. NON-RECEIPT OF CHECK CLAIMS.** Pursuant to 31 USC 3702, a claim for non-receipt of a check which the records of the responsible Government agency or the Department of the Treasury show as being paid must be presented to the responsible Government agency or the Treasury within 1 year after the date of issuance of the check. The claimant may present a claim directly to the Treasury or to the responsible Government agency if the statutory period of limitation is about to expire. Since the Treasury has the paid check records and processes the related claims, the preferred procedure is to make the submission to the Treasury.

A check claim that is received by a Center, which might be adversely affected by the 1-year limitation, should be immediately transmitted to the Treasury. See also FMM 9654-1 for additional information concerning filing a claim for non-receipt of U.S. Treasury checks.

- c. TRANSPORTATION CLAIMS.** Transportation claims of a carrier against NASA must be submitted to the responsible Government agency within the period of limitation specified in 31 USC 3726 (a).

9641-9 SUBMISSION REQUIREMENTS

Deputy Chief Financial Officers (Finance) (DCFO (F)) shall take the following actions in connection with claims against NASA which require adjudication by the responsible Government agency:

- a. Obtain pertinent data and supporting documents. The original claim signed by the claimant, the original of the administrative report and the original or one copy of any supporting documents are required for submission to the responsible Government agency to support the claim and settlement action.
- b. Coordinate the claim with the Center's Chief Counsel to assure propriety of submission.
- c. Prepare a submission letter and send it to the Director, Financial Management Division, NASA Headquarters, Code BF. The letter will then be submitted to the responsible Government agency. The submission letter will contain the following information:
 - (1) The claimant's Center or business name and the social security number or Employee's Identification Number (EIN).
 - (2) A statement of the facts which gave rise to the claim.
 - (3) A statement of the doubt or other reason for forwarding the claim.
 - (4) A recommendation for the proper disposition of the claim.
 - (5) Citations to pertinent supporting documents, such as the original claim, contracts and vouchers.
 - (6) A statement that the claim has not been paid and will not be paid except pursuant to a certification in the name of the responsible agency for approval.



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- (7) A complete appropriation symbol citation.
- d. Notify the claimant of the submission to the responsible Government agency.
- e. Submit supplemental reports to the responsible Government agency as conditions may warrant.

9641-10 ASSISTANCE TO CLAIMANTS

Pursuant to 18 USC 205, a Government employee may neither assist nor act, on behalf of a claimant in prosecuting any claim against the United States other than in the proper discharge of official duties; and may not receive any gratuity, or any share of or interest in any such claim, in consideration of assistance in the prosecution of such claim.

9641-11 FALSE CLAIMS

When there are suspicions of fraud or irregularities regarding a claim either prior to payment or subsequent to payment, the Chief Counsel of the Center should be informed to determine appropriate action. Also, as directed in FMM 9634-8, upon discovery of fraud or irregularities, the Director of Financial Management, NASA Headquarters, Code BF, must be immediately notified telephonically and submission of a written notice.

9641-12 PROCESSING OF CLAIMS BY THE RESPONSIBLE GOVERNMENT AGENCY

- a. **GENERAL.** Claims submitted to the responsible Government agency are settled on the basis of the facts established by the Center and the written and documentary evidence submitted by the claimant. Settlements are determined by establishing the legal liability of NASA in the situation, supported by the written record only. The responsible Government agency will determine if a claim is allowed, partially disallowed or wholly disallowed (28 USC 2401).
- b. **PROCESSING ALLOWED CLAIMS FOR PAYMENT.** In cases when the full or partial amount is allowed and there is no set-off for debt due, NASA Headquarters, Code BF, will forward the voucher to the applicable Center. The Center will effect payment, utilizing the procedures in FMM 9630.

In cases when the full amount allowed or part of the amount allowed is withheld for application to a debt due NASA or another agency, NASA Headquarters, Code BF, will determine procedures that should be used to effect the charges and credits due.

- c. **PROCESSING WHOLLY DISALLOWED CLAIMS.** When a claim is disallowed in full, the responsible Government agency will prepare and issue a memorandum to NASA. NASA Headquarters, Code BF, will forward all correspondence to the applicable Center (28 USC 2401).



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FMM 9642 CLAIMS FOR ERRONEOUS PAYMENT OF PAY AND ALLOWANCES, TRAVEL AND TRANSPORTATION, RELOCATION EXPENSES AND ALLOWANCES

9642-1 SCOPE

This section of the manual sets forth policies and procedures relating to waiver of claims of the United States for erroneous payment of pay and allowances, travel and transportation, relocation expenses and allowances, which must be adjudicated by the Director of the Office of Management and Budget. In the directive "Determination with Respect to Transfer of Functions Pursuant to Public Law 104-316," dated December 17, 1996, the Director of OMB delegated authority to waive collection of erroneous payments from civilian employees under 5 USC 5584 to the Executive Branch agency that made the erroneous payment.

9642-2 POLICY

NASA's policy is to promptly process claims received and approve or deny waiver of claims based on laws, statutes, decisions of the Comptroller General (CG), Code of Federal Regulations, and promulgations of central regulatory agencies, or other legal written documentation.

In cases where an overpayment concerns a debt which clearly does not fall within the provisions of 5 USC 5584, as amended, the Center Deputy Chief Financial Officer (Finance) (DCFO (F)), (for Headquarters, Headquarters Chief Financial Officer), or the Personnel Director shall advise the applicant that waiver may not be considered because the debt does not fall within the provisions of the law.

This FMM does not apply to payments to other than NASA employees, or an advance made to an employee under the provisions of Subchapters I and II, Chapter 57 of Title 5, United States Code. Sums advanced to an employee and not used for allowable expenses are recoverable from the employee or his/her estate by: (1) setoff against accrued pay, retirement credit, or other amounts due the employee; (2) deduction from an amount due from the United States; and (3) other method provided by law.

9642-3 AUTHORITY

- a. Title 5 USC 5584.



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- b. Public Law 104-316, General Accounting Act of 1996 (110 Statute. 3826) Section 101, dated October 19, 1996.
- c. Code of Federal Regulations Subpart 1261.6, "Collection by Offset from Indebted Government Employees".
- d. NASA Policy Directive 9645.2_

9642-4 DEFINITIONS

The following definitions apply to this section:

- a. **AGGREGATE AMOUNT.** The gross amount of a claim, without regard to any repayments, against any person arising out of an erroneous payment of pay or allowances or erroneous payment of travel, transportation, and relocation expenses and allowances to or on behalf of an employee.
- b. **ALLOWANCES.** As they relate to an employee, includes, but is not limited to, payments for quarters, uniforms, overseas cost of living expenses, travel, transportation, and relocation expenses and allowances.
- c. **EMPLOYEE.** A person as defined in 5 USC 2105, who is or was employed in a civilian capacity by NASA.
- d. **PAY.** As it relates to an employee, means salary, wages, pay, compensation, emoluments, and remuneration for services. It includes but is not limited to overtime pay; night, standby, irregular, and hazardous duty differential; pay for Sunday and holiday work; pay for accumulated and accrued leave; and severance pay.

9642-5 REFUND OF AMOUNTS REPAID AND WAIVED

If a person has repaid all or part of an overpayment which is subsequently waived in whole or in part and has not previously made application for refund, that individual shall be informed, in writing, of the right to make application for a refund within 2 years following the effective date of the waiver. A statement should be included in the notification to the effect, "This waiver is effective: month/day/year."

When the person from whom collection was sought has repaid all or part of a claim and all or part of that claim is subsequently waived, the application for waiver shall be construed as an application for a refund and NASA shall, to the extent of the waiver, refund the amount paid. However, no refund shall be paid when the person from whom collection was sought cannot reasonably be located within 2 years after the effective date of the waiver.

Refunds shall be charged to the account into which the collection was deposited. When no refund is made to an otherwise eligible person, the written record should include information as to the attempts made to locate that person and other pertinent information.



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In any case, where a person has repaid to the United States all or part of a claim which has been waived in whole or in part under the provisions of 5 USC 5584, as amended, such person may apply for a refund of that amount. Application for such refund shall be submitted, in writing, to the Center DCFO (F), (for Headquarters, Headquarters Chief Financial Officer) within 2 years following the date of the waiver.

9642-6 *STATUTORY TIME LIMITATION*

It is important that the date of discovery of the erroneous payment be definitely determined by a management official. This is the date from which the 3-year statutory limitation is computed.

Applications for waiver must be received either in NASA or the responsible government agency within 3 years immediately following the date of discovery of the erroneous payment. If the application is received after the expiration of that statutory period, the applicant shall be advised that no action may be taken because the application is time-barred. Such notice to the applicant shall include the applicable statutory provision, the date of discovery of the erroneous payment, and the date of receipt of the application for waiver. Cases of doubt as to the application of the statutory time limit shall be forwarded to the General Counsel through the Center's Chief Counsel for resolution.

9642-7 *BEFORE A CLAIM HAS BEEN ASSERTED BY THE UNITED STATES*

- a. Each employee who has reason to believe that an error has been made in the payment of pay and allowances, or of travel, transportation, and relocation expenses and allowances, shall immediately bring the matter to the attention of the Center DCFO (F), (for Headquarters, Headquarters Chief Financial Officer).
- b. Each management official, to whose attention an employee brings a possible error relative to the payment of pay and allowances, or of travel, transportation, and relocation expenses and allowances, or who has reason to suspect that such an error has been made, shall promptly notify the Center DCFO (F), (for Headquarters, Headquarters Chief Financial Officer) who will take the steps necessary to ascertain whether in fact an error has been made.
- c. Each Center Personnel Director, who, as a result of information received from others or through personal initiative, finds that an erroneous payment has been made, shall promptly bring the matter to the attention of the Center DCFO (F), (for Headquarters, Headquarters Chief Financial Officer), and the employee concerned.
- d. If the erroneous payment was the result of an administrative error on the part of the Personnel Office, the Personnel Director will submit an administrative report to the Center DCFO (F), (for Headquarters, Headquarters Chief Financial Officer) and ensure that the necessary steps are taken immediately to correct the error and avoid its continuation or repetition.



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- e. Each Center DCFO (F), (for Headquarters, Headquarters Chief Financial Officer) who, as a result of information received from others or through personal initiative, finds that an erroneous payment has been made, shall promptly notify the Center Personnel Director and the employee concerned.
- f. If the erroneous payment was the result of an administrative error on the part of the Financial Management Office, the Center DCFO (F), (for Headquarters, Headquarters Chief Financial Officer) will ensure that the necessary steps are taken immediately to correct the error and avoid its continuation or repetition.
- g. Upon concluding that an erroneous payment has occurred, the Center DCFO (F), (for Headquarters, Headquarters Chief Financial Officer) shall promptly prepare a determination of indebtedness, notify the employee in writing concerning the facts, and assert a formal claim for repayment against the employee in accordance with the provisions of 5 USC 5514, as amended and 14 CFR Subpart 1261.5. An account receivable shall be established in the Center accounts.

9642-8 *AFTER A CLAIM FOR REPAYMENT HAS BEEN ASSERTED BY THE UNITED STATES*

Each individual, against whom a claim for repayment of an erroneous payment has been asserted by the United States, may request that such claim be waived in accordance with applicable laws and regulations by submitting a written request to such effect, addressed to the Center DCFO (F), (for Headquarters, Headquarters Chief Financial Officer).

If the employee retires, resigns or transfers, or if the employment or period of active duty otherwise ends before collection of the amount of indebtedness is completed, deduction will be made from salary, lump-sum payment for annual leave, and later payments of any nature due the individual. If a waiver is ultimately granted, the former employee may apply for an appropriate refund.

In the absence of a request for waiver of a claim for erroneous payment by an affected employee, any management official who believes the facts warrant such action may recommend that the Center DCFO (F), (for Headquarters, Headquarters Chief Financial Officer) initiate the waiver procedures prescribed by this FMM.

When an applicant for waiver has received notice of erroneous overpayment and continues to receive that payment, a waiver of the amounts received after that date is invalid. The notifying official should, in such instances, determine as accurately as possible the amounts erroneously paid before and after the date of notice to the recipient and should include those amounts in the comprehensive written report as outline in FMM 9642-9.

9642-9 *SUBMISSION REQUIREMENTS*

Upon initiation of an application for waiver, the Center shall prepare a comprehensive written report containing a chronological summary of the facts and circumstances including:



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- a. The name(s) and mailing address (es) of each employee, or other person from whom collection is sought, or a statement that the person cannot reasonably be located;
- b. The aggregate amount of the claim;
- c. The date the erroneous payment was discovered;
- d. The date the employee, or other person from whom collection is sought was notified of the error and the erroneous amounts paid before and after receipt of such notice;
- e. A statement as to the circumstances under which the erroneous payment was made, the applicant's knowledge of the payment, steps the applicant took, if any, to bring the matter to the attention of the appropriate official, and the agency's response;
- f. A report of investigation as to whether there is any indication of fraud, misrepresentation, fault, or lack of good faith on the part of the employee, or other interested person and the factual basis for such a determination;
- g. Legible copies or originals of supporting documents such as leave and earnings statements travel authorizations and vouchers, and military orders;
- h. Statements of the employee or other interested person(s);
- i. A statement as to the reason the Center believes the erroneous payment occurred and the corrective action taken to prevent the occurrence of similar erroneous payments.

A report of investigation will not be required where the amount involved is \$100 or less and there is no indication of fraud, misrepresentation, fault, or lack of good faith.

The comprehensive written report shall be submitted by the Center DCFO (F), (for Headquarters, Headquarters Chief Financial Officer), to the cognizant NASA Office of Inspector General to conduct an investigation and prepare a report.

All claims shall be coordinated with the financial management office, Personnel Office, legal counsel, and other offices as appropriate. NASA's General Counsel and the Chief Counsel at the respective Centers are responsible for reviewing reports and recommending to the appropriate authority that the request for waiver be granted or denied, in whole or in part, and the reason therefor.

No waivers will be considered in situations where statistical sampling was used under a post-audit system in which an overpayment was discovered.

If there is a question of law, even though the amount of the overpayment does not aggregate more than \$5,000, the case shall be referred through the Center's Chief Counsel to the General Counsel at NASA Headquarters for review and determination as to proper disposition and submission to the Associate Deputy Administrator for decision.

Upon completion of the report, the Agency shall grant or deny waiver and shall provide the applicant written notice as to whether the application for waiver has been granted or denied. When the waiver is denied, the notice shall state the basis for that decision, and, for claims of \$500 or more, advise the applicant of his/her right to request reconsideration from the Associate Deputy Administrator.



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9642-10 *STANDARDS FOR WAIVER*

A waiver may be granted only when collection would be against equity and good conscience and not in the best interests of the United States. Generally, these criteria will be met by a finding that the erroneous payment occurred through administrative error and that there is no indication of fraud, misrepresentation, fault, or lack of good faith on the part of the employee or other person having an interest in obtaining a waiver of the claim. Generally, waiver is precluded when an employee or other person having an interest in obtaining waiver receives a significant unexplained increase in pay or allowances, or otherwise knows, or reasonably should know, that an erroneous payment has occurred, and fails to make inquiries or bring the matter to the attention of the appropriate officials. Waiver under this standard must necessarily depend upon the facts existing in the particular case. The facts upon which waiver is based should be recorded in detail and made a part of the comprehensive written record.

The Government's claim against an employee for repayment of an advance of funds for travel or relocation expenses may be considered for waiver if: (1) the advance was made to cover expenses erroneously authorized; (2) the employee actually spent the advance in reliance on the erroneous travel authorization; and (3) the employee is indebted to the Government for repayment of all or part of the amounts advanced after the advance is applied against any legitimate expenses incurred by the employee.

9642-11 *RECONSIDERATION OF DENIAL*

When waiver is denied for claims \$500 or more, the employee or other person from whom collection is sought may request reconsideration of the denial from the Associate Deputy Administrator. The request should fully explain the errors alleged and the basis of the appeal and should be addressed to the responsible official who denied the waiver.

The responsible official shall refer the request through the General Counsel's Office for review and recommendation as to proper disposition to the Associate Deputy Administrator for decision.

9642-12 *FALSE CLAIMS*

When suspicions of fraud, misrepresentation, fault, or lack of good faith on the part of the employee or other person having an interest in obtaining a waiver of the claim occur, the Chief Counsel of the Center should be informed to determine appropriate action. Also, immediately upon discovery of fraud or other unusual circumstances the Director, Financial Management Division, Code BF, NASA Headquarters must be notified by telephone.

9642-13 *REGISTER OF WAIVERS*

Centers are required to maintain a Register of Waivers showing the disposition of each application for waiver; the register shall be retained for a period of three years, for review by the General Accounting Office and the NASA Office of Inspector General.



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The register shall contain the following information:

- a. The total amount waived by the Center or NASA Headquarters if applicable;
- b. The number and dollar amount of waiver applications granted in full;
- c. The number of waiver applications granted in part and denied in part and the dollar amount of each;
- d. The number and dollar amount of waiver applications denied in their entirety by the Center or NASA Headquarters if applicable;
- e. The dollar amount refunded as a result of waiver action by the agency.